



# PUBLIC NOTICE

**Federal Communications Commission**  
**45 L St., N.E.**  
**Washington, D.C. 20554**

**News Media Information 202 / 418-0500**  
**Internet: <http://www.fcc.gov>**

**DA 22-1114**  
**Released: October 21, 2022**

**DOMESTIC SECTION 214 APPLICATION FILED FOR  
THE ACQUISITION OF CERTAIN ASSETS OF  
PRIORITYONE TELECOMMUNICATIONS, INC.  
BY ZIPLY FIBER PACIFIC, LLC**

**NON-STREAMLINED PLEADING CYCLE ESTABLISHED**

**WC Docket No. 22-306**

**Comments Due: November 4, 2022**

**Reply Comment Due: November 14, 2022**

By this Public Notice, the Wireline Competition Bureau seeks comment from interested parties on an application filed by Ziplly Fiber Pacific, LLC (Ziplly Fiber Pacific) and PriorityONE Telecommunications, Inc. (PriorityONE) (collectively, Applicants), pursuant to section 214 of the Communications Act of 1934, as amended, and sections 63.03-04 of the Commission's rules, requesting consent to transfer certain assets of PriorityONE to Ziplly Fiber Pacific.<sup>1</sup>

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<sup>1</sup> See 47 U.S.C. § 214; 47 CFR §§ 63.03-04. Joint Application for Consent to Assign Assets and Customers of PriorityONE Telecommunications, Inc. to Ziplly Fiber Pacific, LLC, WC Docket No. 22-306 (filed Aug. 16, 2022) (Application). Applicants filed supplements to their Application on August 22, 2022, September 9, 2022, October 12, 2022, and October 14, 2022. See Letter from Wyatt Baum, Counsel for PriorityONE Telecommunications, Inc., and K.C. Halm and John C. Nelson, Jr., Counsel for Ziplly Fiber Pacific, LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 22-306 (filed Aug. 22, 2022) (Aug. 22 Supplement); Letter from Wyatt Baum, Counsel for PriorityONE Telecommunications, Inc., and K.C. Halm and John C. Nelson, Jr., Counsel for Ziplly Fiber Pacific, LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 22-306 (filed Sept. 9, 2022) (Sept. 9 Supplement); Letter from Wyatt Baum, Counsel for PriorityONE Telecommunications, Inc., and K.C. Halm and John C. Nelson, Jr., Counsel for Ziplly Fiber Pacific, LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 22-306 (filed Oct. 12, 2022); Letter from Wyatt Baum, Counsel for PriorityONE Telecommunications, Inc., and K.C. Halm and John C. Nelson, Jr., Counsel for Ziplly Fiber Pacific, LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 22-306 (filed Oct. 14, 2022) (October 14 Supplement). Applicants withdrew their previously filed application for the proposed transaction. See Letter from Wyatt Baum, Counsel for PriorityONE Telecommunications, Inc., and K.C. Halm and John C. Nelson, Jr., Counsel for Ziplly Fiber Pacific, LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 22-244 (filed Aug. 11, 2022) (withdrawing the application referenced in *Domestic Section 214 Application Filed for The Acquisition of Assets of PriorityONE Telecommunications, Inc. by Ziplly Fiber Pacific, LLC*, WC Docket No. 22-244, Public Notice, DA 22-829 (rel. Aug. 5, 2022)). Applicants also filed applications for the transfer of authorizations associated with international and wireless services. Any action on this domestic section 214 application is without prejudice to Commission action on other related, pending applications.

PriorityONE, an Oregon corporation, operates as a competitive local exchange carrier (LEC) in the Oregon counties of Baker, Union, and Wallowa, providing telecommunications and broadband services predominantly as a reseller.<sup>2</sup>

Ziply Fiber Pacific, a Delaware limited liability company, was created for the purposes of the proposed transaction.<sup>3</sup> It will operate under the management of its parent company, Northwest Fiber, LLC (Northwest Fiber), and in conjunction with existing Northwest Fiber subsidiaries (the Ziply Affiliates), which currently provide incumbent LEC services in Union and Wallowa Counties in Oregon.<sup>4</sup> The Ziply Affiliates also provide telecommunications and broadband services in Idaho, Montana, and Washington.<sup>5</sup> Northwest Fiber is indirectly held by Searchlight Capital Partners II GP, LLC (Upper GP) (Delaware, 80% interest), the “ultimate controlling entity for the Searchlight funds”<sup>6</sup> and WDC Management, LLC (Washington, 10% interest).<sup>7</sup> The Searchlight funds are ultimately controlled by the following individuals, each holding a 33.3% voting and equity interest: Eric Zinterhofer, a U.S. citizen; Erol Uzumeri, a Canadian citizen; and Oliver Haarmann, a German citizen.<sup>8</sup> WDC has one member, Steve Weed, a U.S. citizen.<sup>9</sup>

Pursuant to the terms of the proposed transaction, Ziply Fiber Pacific will acquire from PriorityONE “various rights, property, and assets (including all customer contracts and customer relationships)” used in the provision of telecommunications services and other services.<sup>10</sup> As a result, Ziply Fiber Pacific will become the telecommunications service provider to PriorityONE’s existing customers.<sup>11</sup>

Applicants contend that the proposed transaction is in the public interest, will be transparent to customers, and that Northwest Fiber’s post-transaction managerial and financial investment will result in the “continued expansion of PriorityONE’s fiber-based service to more business and residential customers across the state of Oregon.”<sup>12</sup> They further state that there are other competitive providers in areas in which PriorityONE and Ziply Fiber affiliates both provide service.<sup>13</sup>

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<sup>2</sup> Application at 3-4; Sept. 9 Supplement at 1.

<sup>3</sup> *Id.* at 2.

<sup>4</sup> *Id.* at 2-3; Supplement at 1.

<sup>5</sup> Application at 2-3.

<sup>6</sup> *Id.* at 12-13; Exh. A (Ownership Entity Structure Diagrams for Ziply Fiber Pacific, LLC) at 2; *see* October 14 Supplement for an updated ownership chart. October 14 Supplement at App. 1 (Updated Entity Ownership Structure Chart for Ziply Fiber Pacific, LLC).

<sup>7</sup> *Id.* at 10, Exh. A at 2; October 14 Supplement at 1 and App. 1.

<sup>8</sup> Application at 13-14; October 14 Supplement at 1 and App. 1. Applicants state that several Canadian pension and investment entities and a British Columbia pension fund hold a 10% or greater interest in Northwest Fiber through limited partnership interests in certain Searchlight funds. Application at 14-15.

<sup>9</sup> *Id.* at 10; Sept. 9 Supplement at 1.

<sup>10</sup> Application at 4.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* at 5-6.

<sup>13</sup> *Id.* at 17-18.

Because the transferring assets used to provide telecommunications services overlap with service areas of the Ziplly Affiliates, the proposed transaction does not qualify for presumptive streamlined treatment under the Commission's rules, and we accept it for non-streamlined processing.<sup>14</sup>

Domestic Section 214 Application Filed for the Acquisition of Certain Assets of PriorityONE Telecommunications, Inc. by Ziplly Fiber Pacific, LLC, WC Docket No. 22-306 (filed Aug. 16, 2022).

## **GENERAL INFORMATION**

The application identified herein has been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies.

Interested parties may file comments **on or before November 4, 2022**, and reply comments **on or before November 14, 2022**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by paper.

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<sup>14</sup> 47 CFR § 63.03(b). The Commission determined in the *Executive Branch Review Process Order* that it would not routinely refer to the Executive Branch applications where the Applicants have "an existing mitigation agreement, there are no new reportable foreign owners of the applicant since the effective date of the mitigation agreement, and the applicant agrees to continue to comply with the terms of that mitigation agreement." *Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership*, IB Docket 16-155, Report and Order, 35 FCC Rcd 10927, 10939, para. 30 (2020) (*Executive Branch Review Process Order*). The Commission, however, retains the discretion to refer such a transaction should it find that a particular application may raise national security, law enforcement, foreign policy, and trade policy concerns for which it would benefit from the advice of the Executive Branch. *Id.* Applicants state that the Executive Branch agencies previously reviewed Ziplly Fiber Pacific's parent company, Northwest Fiber, in connection with Northwest Fiber's acquisition of certain subsidiaries of Frontier Communications Corporation (Frontier), and that the Executive Branch agencies approved the Frontier transfer of control subject to Northwest Fiber's compliance with its executed Letter of Agreement, dated November 21, 2019 (Northwest Fiber LOA). Application at 20-21 and n.31 (citing National Telecommunications and Information Administration, Petitions to Adopt Conditions to Authorizations and Licenses, WC Docket No. 19-188, ITC-T/C-20190628-00128, ITCASG-20190628-00129, ITC-ASG-20190628-00130, ULS0008706469, ULS 0008706476, ULS 0008706478, ISP-PDR-20190708-00006 (filed Nov. 22, 2019); Letter of Agreement from Timothy B. Austin, Vice President and Secretary, Northwest Fiber, LLC, to Assistant Attorney General for National Security, United States Department of Justice (dated Nov. 21, 2019)). See *Applications Filed for the Transfer of Control of Certain Subsidiaries of Frontier Communications Corporation to Northwest Fiber, LLC*, Memorandum Opinion and Order and Declaratory Ruling, WC Docket No. 19-188, 34 FCC Rcd 12344 (WCB/IB/WTB 2019). Applicants assert that: the Northwest Fiber LOA remains in place; there are no new reportable foreign owners of Northwest Fiber since the Executive Branch agencies' review of the Frontier transaction; and Ziplly Fiber Pacific and Northwest Fiber agree to comply with the obligations imposed by the Northwest Fiber LOA upon consummation of the proposed transaction. Application at 21. Applicants maintain that, consistent with the decision in the *Executive Branch Review Process Order*, the Application does not require a referral to the Executive Branch. Application at 20-22. We find that Applicants have made a showing that this Application comes within an exclusion from referral to the Executive Branch for national security, law enforcement, foreign policy and trade policy review. While we are not referring the Application, we will provide a courtesy copy of this public notice to the Executive Branch agencies. See *Executive Branch Review Process Order* at 10941, para. 36, n. 99; see also *id.* at 10939, para 30, n. 81.

- **Electronic Filers:** Comments may be filed electronically by accessing ECFS at <http://apps.fcc.gov/ecfs/>.
- **Paper Filers:** Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.
  - Filings can be sent by commercial overnight courier or by first-class or overnight U.S. Postal Service mail.<sup>15</sup> All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
  - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington, DC 20554.

**People with Disabilities:** We ask that requests for accommodations be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at (202) 418-0530.

**In addition, e-mail one copy of each pleading to each of the following:**

- 1) Dennis Johnson, Competition Policy Division, Wireline Competition Bureau, [dennis.johnson@fcc.gov](mailto:dennis.johnson@fcc.gov);
- 2) David Krech, Telecommunications and Analysis Division, International Bureau, [david.krech@fcc.gov](mailto:david.krech@fcc.gov);
- 3) Sumita Mukhoty, Telecommunications and Analysis Division, International Bureau, [sumita.mukhoty@fcc.gov](mailto:sumita.mukhoty@fcc.gov); and
- 4) Jim Bird, Office of General Counsel, [jim.bird@fcc.gov](mailto:jim.bird@fcc.gov).

The proceeding in this Notice shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written

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<sup>15</sup> Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, 35 FCC Rcd 2788 (OS 2020).

*ex parte* presentations and must be filed consistent with rule 1.1206(b), 47 CFR § 1.1206(b). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

To allow the Commission to consider fully all substantive issues regarding the application in as timely and efficient a manner as possible, petitioners and commenters should raise all issues in their initial filings. New issues may not be raised in responses or replies.<sup>16</sup> A party or interested person seeking to raise a new issue after the pleading cycle has closed must show good cause why it was not possible for it to have raised the issue previously. Submissions after the pleading cycle has closed that seek to raise new issues based on new facts or newly discovered facts should be filed within 15 days after such facts are discovered. Absent such a showing of good cause, any issues not timely raised may be disregarded by the Commission. For further information, please contact Dennis Johnson at [dennis.johnson@fcc.gov](mailto:dennis.johnson@fcc.gov) or at (202) 418-0809.

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<sup>16</sup> See 47 CFR § 1.45(c).